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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

KELLI GRAY, and all others similarly
situated,

Plaintiff,

v.

SUTTELL & ASSOCIATES;
MIDLAND FUNDING, LLC; MARK
T. CASE, and JANE DOE CASE,
husband and wife, KAREN HAMMER
and JOHN DOE HAMMER, wife and
husband.

Defendants.

Case No.: CV-09-251-EFS

MEMORANDUM IN SUPPORT OF
PLAINTIFF'S MOTION FOR
EXTENSION OF TIME TO
RESPOND TO THE SUTTELL
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT RE:
ATTORNEY FEES AND TO
CONTINUE HEARING

MEMORANDUM IN SUPPORT OF
PLAINTIFF'S MOTION FOR EXTENSION
OF TIME AND TO CONTINUE HEARING

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1 The Plaintiff requires an extension of time to fully respond to the Suttell
2 Defendants' Motion for Summary Judgment Re: Attorney Fees¹. On July 21, 2010,
3 the Suttell Defendants filed their Motion for Summary Judgment Re: Attorney
4 Fees. (Ct. Rec. 44). Plaintiff intends to file a cross motion on the same issues (state
5 court attorney fees as a FDCPA violation). Judicial economy would dictate that it
6 would be more efficient to consider both the Suttell Defendants' and the Plaintiff's
7 Motion for Summary Judgment (regarding State Court Attorney Fees as an
8 FDCPA violation) at the same time. On August 3, 2010, Plaintiff deposed
9 Defendant Karen Hammer. On August 4, 2010, Plaintiff deposed Suttell employee
10 Tu Uyen Huynh. The deposition transcripts of Karen Hammer and Tu Uyen Huynh
11 will not be available until August 17, 2010 due to the vacation of the court
12 reporter. Plaintiff needs the transcripts of the depositions of Karen Hammer and Tu
13 Uyen Huynh in order to adequately respond to the Defendants' Motion.
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18 An extension is further warranted because the Defendants have not
19 adequately responded to the majority of the Plaintiff's written discovery requests
20 salient to the pending Summary Judgment Motion. See Motion to Compel (Ct.
21

22
23 ¹ In compliance with the scheduling order, and to the extent Plaintiff's Motion to
24 Extend is denied, Plaintiff has filed a Response based on the information available.
25 (Ct. Rec. 55).

1 Rec. 82). The Plaintiff has filed a Motion to Compel to be heard September 9,
2 2010 to address those concerns. Id.

3 The clerk has identified October 20, 2010 at 1:30 P.M. (in Richland,
4 Washington with Oral Argument) as an available hearing date for Plaintiff's
5 Motions for Summary Judgment. However, the Suttell Defendant's attorney has
6 now indicated he is unavailable on that date. The next available court date for
7 hearing with oral argument is apparently in Spokane on November 17, 2010. It
8 would seem to make sense to continue all pending motions and the Plaintiff's
9 Motion (to be filed) for Summary Judgment regarding Attorney Fees to that date.
10

11 The pending discovery is likely to uncover material facts relevant to the
12 Defendants Motion Re: Attorney Fees (FRCP 56 (f)(2)). The Plaintiff should be
13 allowed to complete the pending discovery before responding.
14

15 Therefore, the Plaintiff respectfully requests the Court extend the time for
16 Plaintiff to respond to the Suttell Defendants' Motion for Summary Judgment Re:
17 Attorney Fees to September 21, 2010² (the same date Defendant's Response to
18 Plaintiff's Motion would be due for the Summary Judgment Motion to be timely
19 filed by the Plaintiff to be heard November 17, 2010) and continue the hearing
20
21
22

23 _____
24 ² Plaintiff's Motion to Compel Responses to the written discovery is set for
25 September 9, 2010.

1 (currently set for September 9, 2010 at 2:30 p.m.) to November 17, 2010 to be
2 heard in conjunction with other pending motions.

3
4 DATED this the 11th day of August 2010.

5 *Michael D. Kinkley P.S.*

6
7 s/Michael D. Kinkley

8 Michael D. Kinkley
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CM/ECF CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of August, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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